IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4334 of 2007()

C.C.NO.2318 OF 2002 ON THE FILE OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT OF ERNAKULAM

REVN. PETITIONER: COMPLAINANT:

M.P. NARAYANADAS,
VADAKKEMADATHIL HOUSE, POOTHOTTA POST.

BY ADV. SRI.V.R.KESAVA KAIMAL

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVEENDRA BABU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P.No. 4334 of 2007

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Dated this the 5th day of December, 2007

ORDER

Revision petitioner, who is the complainant in C.C.No.2318 of 2002 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam for offences punishable under Section 138 of the Negotiable Instruments Act, 1881, challenges the order dated 25.9.07 passed by the Additional Chief Judicial Magistrate dismissing the complaint under Section 204(4)Cr.P.C for the absence of the complainant and also for the failure to make a representation for not furnishing the correct address of the accused.

2. Since the order was passed before the issuance of process to the accused, notice to the accused in this revision is dispensed with.

3. It is true that on 24.9.07 there must have been no representation on behalf of the complainant. After the filing of the complaint in the year 2002, according to the revision petitioner, it was being adjourned to longer dates and the dismissal of the complaint on 25.9.07 was a volte-face. Having

regard to the fact that the cheque involved is for a sum of Rs.2 lakhs, the learned Magistrate should have given the complainant a reasonable opportunity to furnish the correct address of the accused for taking out summons or warrant as the case may be. Accordingly the impugned order dated 25.9.2007 in C.C.No.2318 of 2002 is set aside and C.C.No.2318 of 2002 will stand restored to file. The revision petitioner shall appear before the court below without any further notice on 2.1.08, by which time he shall have furnished the correct address of the accused and done everything for the further progress of the complaint.

V. RAMKUMAR, JUDGE

sj